

EXHIBIT 239

1884

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 UNITED STATES OF AMERICA

4 v. S(7) 98 Cr. 1023

5 USAMA BIN LADEN, et al.,

6 Defendants.

7 -----x

8
New York, N.Y.
9 March 7, 2001
9:55 a.m.

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11

12 Before:

13 HON. LEONARD B. SAND,

14 District Judge

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2006

1 was a very good friend of his who was also trained in the Bin
2 Laden camps who fought alongside Al-'Owhali in that famous, as
3 he describe the famous C formation battle. So Al-'Owhali
4 stayed at this person's house.

5 Q. What did Al-'Owhali do while he was in Yemen?

6 A. Al-'Owhali telephoned his parents, and it was decided,
7 Al-'Owhali decided it would be too dangerous for him to travel
8 to Saudi Arabia, so his father, it was agreed that his father
9 would travel from Saudi Arabia to Yemen, and he did and he met
10 with Al-'Owhali and Ahmed al Hazza.

11 Q. And did Al-'Owhali mention anything else he did while he
12 was in Yemen?

13 A. While he was in Yemen he did receive the passport that was
14 facilitated by Bilal and he received a Yemen passport in the
15 name of Khalid Salim Saleh Bin Rashid. Al-'Owhali also met
16 with Ahmed al Hazza and his father and there was an agreement
17 made that Ahmed al Hazza would be the middleman in between
18 Al-'Owhali and his father. From this point on if Al-'Owhali
19 needed anything from his father, Ahmed al Hazza would be the
20 go between to make any of that happen.

21 Q. It did Mr. Al-'Owhali eventually leave Yemen?

22 A. Yes. He was again contacted that the mission was getting
23 closer and that he needed to come back to Pakistan.

24 Q. And who contacted him?

25 A. It was Azzam who had contacted him.

2007

1 Q. And did he eventually go back to Pakistan?

2 A. Yes, he did.

3 Q. Did he tell you about when this was?

4 A. This is about three months before the bombing.

5 Q. What did he do when he went back to Pakistan?

6 A. Al-'Owhali explained to me upon arrival in Pakistan he was
7 met by Azzam, and another person that Al-'Owhali described to
8 me to be named Khalid.

9 Q. Did he describe Khalid at all?

10 A. He described Khalid to be someone in his twenties from
11 Saudi Arabia but that's all, that's about all the description
12 he gave me.

13 Q. And what happened when he met with Khalid and Azzam?

14 A. Azzam told Al-'Owhali that Khalid was going to give him
15 his instructions on what the mission was and then to listen to
16 Khalid. And then Azzam departed.

17 Q. Did Al-'Owhali eventually have a meeting with Khalid?

18 A. Yes, he did. Al-'Owhali explained to me that Khalid told
19 him that the mission was going to be a martyrdom operation
20 that would end, that would result in Al-'Owhali's own death;
21 that there was going to be, there was a target against the

22 United States where Al-'Owhali would be assisting in driving a
23 truck full of explosives, and somehow at that target the truck
24 would explode and Mr. Al-'Owhali would become a martyr.
25 Q. Did Khalid tell him anything about what the target was at

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1 that time?

2 A. He just told him it was a US target somewhere in East
3 Africa, but didn't specify the exact location of the target at
4 that time.

5 Q. And did Al-'Owhali tell you he did anything else with
6 Khalid at this meeting?

7 A. Al-'Owhali explained to me that Khalid then took what
8 Al-'Owhali described to me to be a martyrdom video where
9 Khalid operated a video camera and instructed Al-'Owhali to
10 say something while it was being filmed, and that this video
11 would be played upon the successful completion of his mission
12 and Mr. Al-'Owhali's martyrdom or death.

13 Q. Did Mr. Al-'Owhali film this video?

14 A. I'm sorry?

15 Q. Did they actually film this video?

16 A. 'Owhali explained to me they did film the video and during
17 the filming Khalid instructed to Al-'Owhali to say that he was
18 with a particular unit.

19 Q. Do you recall the name of that unit?

20 A. Al-'Owhali told me the unit was the Third Martyr Barracks
21 First Squad of the El bara bin Malik division of the

22 Liberation Army of the Army of the -- I'm sorry -- of the Army

23 of Liberating the Islamic holy lands.

24 Q. And did Mr. Al-'Owhali tell you whether he had ever heard

25 of this group before?

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1 A. Mr. Al-'Owhali explained to me that he wasn't exactly sure
2 what that group was, but that's what Khalid told him to say so
3 that's what he said on the video.

4 Q. Now, did Mr. Al-'Owhali tell you about any other public
5 statements that he had heard from the group at around that
6 time?

7 A. Al-'Owhali explained to me that around this time, around
8 the time of the filming of the ABC interview with Khost,
9 Afghanistan of Bin Laden that he did meet with Bin Laden one
10 more time.

11 Q. Did he hear about any public statement by any particular
12 group around that time?

13 A. Al-'Owhali explained to me that he had learned of fatwas
14 that were put out and he described the fatwas put out by the
15 International Islamic Foundation -- I'm sorry -- the
16 International Islamic Front. And that this particular fatwa
17 called for violence against the United States was the main,
18 the main cause of the fatwa of its main cause.

19 Q. Did Mr. Al-'Owhali say anything about who he understood
20 belonged to the International Islamic Front?

21 A. He said this particular fatwas was signed by Usama Bin

22 Laden and several other leaders of jihad groups.

23 Q. Did Mr. Al-'Owhali tell you about anyone else who was

24 present in Khost during the time of the Bin Laden interview

25 with ABC News in May 1998?

2010

1 A. Al-'Owhali explained to me that Azzam was actually present
2 during the filming of that ABC interview of Usama Bin Laden.

3 Q. Now, after Mr. 'Owhali filmed in videotape, did he have
4 any further conversations with Khalid?

5 A. He told me that Khalid instructed him that time to go and
6 you're going to be traveling to Nairobi, Kenya, and upon
7 arrival in Nairobi Kenya you'll be met by others in the group
8 who will give you your last, your final instructions on the
9 mission.

10 Q. Did Mr. Al-'Owhali eventually leave Pakistan for Nairobi?

11 A. Al-'Owhali explained to me that he left, his itinerary to
12 leave Pakistan on July 31st and he was schedule to arrive in
13 Nairobi Kenya on Saturday, August 1st. 'Owhali explained to
14 me that his route of travel was on the Gulf Airline from Lahor
15 Pakistan to Karachi Pakistan, from Karachi to Muscat and from
16 Muscat to Abu Dhabi of the United Arab Emirates and from there
17 to one last leg to Nairobi Kenya where he should have arrived
18 on the 1st of August.

19 (Continued on next page)

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1 Q. Did Mr. al-'Owhali actually arrive in Nairobi on August 1?

2 A. Al-'Owhali told me that on this journey that he missed a

3 connecting flight between Muscat and Abu Dhabi, and because he

4 missed his connection flight he calls Khalid and Khalid

5 explains to him that you're not going to arrive on time now so

6 you're going to miss the link-up with Azzam and the others who

7 are going to be going to Mombasa, but get the next connecting

8 flight to Nairobi and someone from the group will eventually

9 pick you up. Upon arrival in Nairobi, take a taxi to the

10 Ramada Hotel in Iftin.

11 Q. And when did Mr. al-'Owhali actually arrive in Nairobi?

12 A. Al-'Owhali arrived in Nairobi on the Sunday, the 2nd of

13 August.

14 Q. What did he do once he arrived in Nairobi?

15 A. Upon arriving in Nairobi, he followed Khalid's

16 instructions and he took the taxi to the Ramada Hotel. Upon

17 arrival at the hotel, he used a phone service, not at the

18 Ramada but nearby the Ramada, as he explained it to me, and

19 telephones Khalid and advised Khalid that he, Al-'Owhali, had

20 checked into room 24. Khalid explains to Al-'Owhali that he

21 would contact Saleh in Mombasa and explain to him where he was

22 and to instruct someone to go pick up Al-'Owhali at the Ramada

23 Hotel.

24 Q. And did Mr. al-'Owhali tell you about what time he arrived

25 in Nairobi?

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1 A. He arrived on early morning on Sunday, the 2nd of August.

2 Q. What happened after he checked into the Ramada Hotel in

3 Ifin?

4 A. Like I said, he called Khalid, let people know that he was

5 in room 24, and before sunset that same day, a man Al-'Owhali

6 identified as Harun picked him up from the Ramada Hotel.

7 Q. Did he describe Harun?

8 A. He described Harun to be a Somali-looking man who was in

9 his 20s, around five-foot-five, just basic description like

10 that.

11 Q. Did Mr. al-'Owhali eventually identify Harun?

12 A. Yes, he did.

13 Q. How did he identify Harun?

14 A. We had a videotape queued up in a VCR for Mr. al-'Owhali

15 to view and when we put in the videotape he realized, and he

16 expressed to me that he realized, that this video was

17 regarding a ferry accident in Lake -- ferry accident, and at

18 the particular point where Harun's face became clear in the

19 monitor, he identified the person to be Harun.

20 Q. What did Harun do once he got to the Ramada Hotel?

21 A. Upon Harun arriving at the Ramada Hotel, he paid the bill

22 for Al-'Owhali even though he didn't stay there for the night,

23 he paid for whatever time he had stayed there, collected

24 Al-'Owhali and took Al-'Owhali to his house in Nairobi.

25 Q. What happened after Mr. al-'Owhali went back to Harun's

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1 house in Nairobi?

2 A. Al-'Owhali explained to me that he stayed at Harun's house
3 for the rest of the week up to the time of the bombing. He
4 arrived in Harun's house again on the 2nd. The very next day,
5 Azzam and Saleh came to Harun's house and that's when they
6 started to get the instructions on the mission from Azzam and
7 Saleh.

8 Q. You mentioned Saleh. Did Mr. al-'Owhali tell you who
9 Saleh was?

10 A. Al-'Owhali described Saleh to be an Egyptian male in his
11 30s, physical, not very much more than that, other than that
12 he was the leader of the cell.

13 Q. Did Mr. al-'Owhali say anything about Saleh's role in the
14 bombings?

15 A. Al-'Owhali explained to me that Saleh was the planner of
16 both, of the bombing in Nairobi and the bombing in Dar es
17 Salaam. Saleh was the leader of the cell that was going to
18 carry out both of these attacks.

19 Q. Did Mr. al-'Owhali tell you anything about what Saleh said
20 about Harun?

21 A. On this day when Saleh and Azzam came from Mombasa, Saleh

22 had given Al-'Owhali the details of what the mission was going
23 to be. He said first that this Harun was the facilitator or
24 the person who was the administrator of inside the cell, that
25 Harun had obtained the house that they were staying at that

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1 time, his house here in Nairobi, and also that this is where
2 the truck and the bomb -- the truck was kept and where the
3 bomb was assembled, in the garage of Harun's house.

4 Q. Did Mr. al-'Owhali meet with Saleh that day, on August 3?

5 A. Yes, he did.

6 Q. What did they discuss on August 3?

7 A. On that day, Saleh started to give Al-'Owhali the details
8 of the mission. Saleh explained to Al-'Owhali that in fact
9 there were going to be two bombings, there was going to be a
10 bombing of the U.S. embassy in Nairobi, Kenya and the bombing
11 of the U.S. embassy in Dar es Salaam, Tanzania; that both of
12 these were going to occur on the same day, on Friday, August
13 7th, between 10:30 and 11:00 in the morning.

14 Saleh then showed Al-'Owhali some photographs and
15 some drawings of the embassy in Nairobi and started to give
16 Al-'Owhali details of what his mission was going to be. Saleh
17 explained to Al-'Owhali that Al-'Owhali's role was to assist
18 Azzam in getting the bomb truck to the embassy in Nairobi.
19 Azzam would be the driver, Al-'Owhali would be the passenger.

20 Upon arriving at the embassy, Al-'Owhali was to exit
21 the vehicle -- he had a couple missions. One was to exit the

22 vehicle and use a pistol to get the guard to open the drop bar
23 so that Azzam could drive the truck as close to the embassy as
24 possible. Upon that happening, Al-'Owhali was instructed that
25 he was to fire his gun in the air and also to throw several of

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1 what Al-'Owhali described to me as homemade stun grenades
2 around the area and this was to scatter people out of the
3 area.

4 The last part of his mission was that the particular
5 truck, the way it was designed was that the bomb had to be
6 detonated by pressing some electric buttons from inside the
7 truck, that the driver of the truck would actually have to do
8 it. It wasn't like a remote control or anything like that,
9 the driver had to press some buttons inside the truck.

10 If for some reason the electrical circuit didn't
11 work, Al-'Owhali's last portion of the mission was, he had
12 keys to the back of the truck where the door was in the back
13 and that's where the bomb was housed, and if for some reason
14 the electrical detonation didn't work, that he was to take
15 his -- these homemade stun grenades that were made out of a
16 portion of TNT and some other materials and he was to throw
17 them inside the back of the truck to cause the bomb to
18 manually explode instead of being detonated from the front.

19 Q. Did Saleh tell anything to Mr. al-'Owhali about the bomb
20 that was going to be used?

21 A. Saleh, Azzam and Harun and Al-'Owhali all then went to the

22 garage and they showed Al-'Owhali the truck that the bomb was
23 in, and Saleh had explained to Al-'Owhali that the bomb had
24 been built about two weeks ago. And Al-'Owhali described the
25 truck to be light brown or beige-colored, that it had two

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1 wheels in the front on the front axle and four wheels on the
2 back axle, and that the truck was, the compartment of the
3 truck was encased with metal. The front part of the truck
4 just had a regular compartment for the driver and the
5 passenger, no additional seats, and that the bomb itself was
6 comprised of TNT, aluminum nitrate and aluminum powder that
7 were put in many, many wooden boxes or wooden crates and these
8 were all connected with wires to some batteries in the back of
9 the truck and that then the wiring would go to the front of
10 the truck where the bomb would be detonated.

11 Q. Did Saleh tell anything to Mr. -- say anything to
12 Mr. al-'Owhali about the plan for the bombing in Dar es
13 Salaam?

14 A. Yes, he did. Al-'Owhali explained to me that Saleh told
15 him that in addition to the bombing in Nairobi on the 7th of
16 August, there would also be a truck bombing of the U.S.
17 embassy in Dar es Salaam and he explained to me some of the
18 differences between the two: Whereas in Nairobi there would
19 be two people in the truck, in Dar es Salaam there would only
20 be one person in the vehicle. And Al-'Owhali told me that
21 person's name was Ahmed Abdallah, who Al-'Owhali also knew as

22 Ahmed the German.

23 Q. Did Mr. al-'Owhali tell you anything about Ahmed Abdallah?

24 A. He referred to Ahmed the German to be someone who was from

25 Egypt who was a trainer in the Jihad Wal Camp in Afghanistan,

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1 one of the al Qaeda's camps, and Al-'Owhali and him were
2 friends from that time at the camp.

3 Al-'Owhali expressed to me at that point that because
4 he had arrived a day late in Nairobi, he missed the link-up
5 that would have happened in Mombasa and he expressed to me
6 that because of him missing that date, he didn't get to say
7 good-bye to Ahmed the German in Mombasa. He expressed to me
8 that he would have liked to have done that.

9 Q. Did he give you any physical description for Ahmed the
10 German?

11 A. He was from -- that he was actually fair-skinned with
12 light hair and light eyes and that's, Al-'Owhali said, how he
13 gets the name Ahmed the German, even though he's someone from
14 Egypt.

15 Q. Did Saleh tell him anything about the plan to bomb the
16 embassy in?

17 A. Al-'Owhali told me that the plan to bomb the embassy
18 again, the bomb itself was also going to be delivered by a
19 truck, but this particular truck was a refrigerator truck. So
20 I asked him, was it meant to be kept cold for something? He
21 said, no, it's a refrigeration truck because it was the only

22 truck available.

23 Al-'Owhali told me that Saleh had bragged to

24 Al-'Owhali that they were able to build this bomb and get

25 everything ready in only ten days. He had said that several

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1 days, Saleh was very boastful about being able to put the Dar
2 es Salaam bombing together in such a short period of time.
3 But also, one of the other differences between the two
4 bombings was that also comprised of the bomb in Dar es Salaam
5 was comprised of TNT, batteries, wires and things of that
6 nature, but also would also have a number of oxygen tanks or
7 gas canisters in the back of the -- in the back with the TNT.
8 And I asked Al-'Owhali why that was, and he said he wasn't a
9 bomb builder but from what he understood, it was for
10 additional fragmentation.

11 Q. Did Mr. al-'Owhali tell you anything about the location of
12 the bomb truck in Dar es Salaam?

13 A. He said that initially the plan was to put the truck
14 within a three-meter space at the embassy at Dar es Salaam. I
15 didn't have a picture, he couldn't identify it, but I remember
16 him specifically saying a three-meter space, but for some
17 reason that this particular space was too close to the French
18 Embassy so that the planners decided to move it to one of the
19 security gates.

20 Q. Did Mr. al-'Owhali tell you how Saleh kept in contact with
21 Ahmed the German in Dar es Salaam?

22 A. Yes. Al-'Owhali explained to me that Ahmed the German had
23 a mobile phone and that he would keep in touch with Saleh with
24 using that phone in case anything needed to be changed with
25 the mission or anything like that.

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1 Q. Did Mr. al-'Owhali tell you anything about who he reported
2 to in this mission?

3 A. Al-'Owhali explained to me that his organization is
4 loosely structured; that depending on the mission, you report
5 to different people at different times. Al-'Owhali explained
6 to me in this mission that he reported to the person who
7 recruited him, which would be Azzam, and then Azzam in turn
8 reported to somebody higher up, and that person higher up and
9 so on all the way up to the top.

10 Q. Did Mr. al-'Owhali tell you what if anything he believed
11 Usama Bin Laden's role in the bombing was?

12 A. Al-'Owhali explained to me that Usama Bin Laden is at the
13 very top of al Qaeda but that he has several senior military,
14 several senior military leaders directly under him, and that
15 Bin Laden provides the political objectives to these military
16 leaders or these senior leaders and that these people would
17 then provide the instructions down, down lower to the lower
18 chains of command. Al-'Owhali explained that it wouldn't be
19 normal for Bin Laden to directly give instructions to someone
20 like Azzam or directly to him.

21 Q. What happened after this meeting on August the 3rd that

22 Mr. al-'Owhali had with Saleh?

23 A. Al-'Owhali explained that on the 3rd of August -- I'm

24 sorry, on Tuesday, which would be the 4th of August, Saleh had

25 took Al-'Owhali to the American Embassy in Nairobi and showed

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1 him where he wanted the bomb truck to be placed by the drop
2 bar in the rear rear of the U.S. embassy.

3 Al-'Owhali had expressed to Saleh that, wouldn't it
4 be better if we were to put the bomb truck in the front of the
5 U.S. embassy, and Saleh disagreed. And then Al-'Owhali
6 suggested, wouldn't it be better for us to put the bomb
7 underneath the U.S. Embassy in the garage that goes underneath
8 and that way we would cause more damage to the Americans since
9 it's the U.S. Embassy, but Saleh had explained to him that
10 would be difficult to do, to get it past the section of the
11 security gate to Al-'Owhali. The plan didn't get changed.

12 Q. Did Mr. al-'Owhali tell you anything about why the day,
13 that particular day was selected, Friday, August 7?

14 A. Al-'Owhali explained to me that he was part of the
15 execution phase of the bombing. He, you know, he didn't know
16 all that much about the planning and preparation except what
17 Saleh was telling him.

18 Saleh had explained to him that they had chose Friday
19 between 10:30 and 11 because that would be when most of them
20 should be either at mosque or on their way to mosque at that
21 time. This way, by doing it at that time on Friday, they

22 would be less likely to hurt any Muslims.

23 Q. Did Saleh say anything about why the embassy in Nairobi

24 was targeted?

25 A. Al-'Owhali explained to me that there were several reasons

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1 for picking -- explained to him through Saleh there were
2 several reasons why the embassy in Nairobi was picked. First,
3 there was a large American presence at the U.S. Embassy in
4 Nairobi; that the ambassador of the U.S. Embassy was a female
5 and if the bomb resulted in her being killed, it would further
6 the publicity for the bombing.

7 Also, that there were embassy personnel in Nairobi
8 who were responsible for work in the Country of Sudan. There
9 were also a number of Christian missionaries at the embassy in
10 Nairobi. And lastly, that it was what Al-'Owhali explained as
11 ease of access to the embassy. It was an easy target.

12 Q. Did Mr. al-'Owhali discuss any other targets with Saleh at
13 this time?

14 A. Al-'Owhali explained to me -- explained to me that there
15 were, there's a number of different targets. He doesn't know
16 where they all are, but they're in the planning stages.

17 Al-'Owhali discussed with Saleh when, you know, are
18 there targets in the United States that we can attack? Saleh
19 had explained to him there are targets in the U.S. that we
20 could hit, but things aren't ready yet, we don't have
21 everything prepared to do that yet. First, we must -- first,

22 Saleh explains to Al-'Owhali that we have to have many attacks

23 outside the United States and this will weaken the U.S. and

24 make way for our ability to strike within the United States.

25 Q. Did Mr. al-'Owhali tell you about anything that he learned

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1 about targets during his training on camps in Afghanistan?

2 A. Al-'Owhali explained to me during his training they

3 emphasized priorities of attacks, three of those to be

4 military bases, U.S. missions or diplomatic posts and

5 kidnapping ambassadors.

6 Q. Did Mr. al-'Owhali see Saleh again after Tuesday, August

7 4th?

8 A. Al-'Owhali explained to me that after Tuesday, the 4th, he

9 never saw Saleh again.

10 Q. What did Mr. --

11 MR. BUTLER: Your Honor, we have about another half

12 an hour or so on direct. Would you like to take a break?

13 THE COURT: We'll take a recess at this point.

14 (Jury not present)

15 THE COURT: Is this too early for a prayer recess?

16 MR. COHN: Yes, prayer's okay now.

17 THE COURT: Prayer is okay now. Let's take a prayer

18 recess.

19 MR. COHN: May I just raise scheduling? Since the

20 government has another half hour and this will take to 4:15,

21 quarter to, leave us to quarter after, unless you're prepared

22 to let me finish my cross until the end, I would like to break

23 at the end of the government's witness's direct.

24 THE COURT: Of direct.

25 MR. COHN: I will either go to the end of mine, which

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1 is about 45 minutes, or I would like to go tomorrow. I don't
2 want to split it up.

3 THE COURT: I have no problem with it. The
4 government has no problem.

5 MR. COHN: Very good.

6 THE COURT: All right.

7 (Recess)

8 THE COURT: All set to resume? All right, the
9 witness and the jury.

10 MR. COHN: Judge, while we're waiting, just for the
11 record, we had a problem with the clothing. I made an
12 objection in the robing room. I didn't object when it came in
13 and that's because the government convinced me that I was
14 wrong, and I have withdrawn the objection.

15 THE COURT: Very well.

16 (Jury present)

17 THE COURT: Mr. Butler.

18 BY MR. BUTLER:

19 Q. Agent Gaudin, you testified, I believe, as to certain
20 information that Mr. al-'Owhali learned about targets while he
21 was in the training camps in Afghanistan. Did he tell you

22 anything about why embassies are specifically targeted?

23 A. In addition to telling me the types of targets, he also

24 explained that hitting embassies achieves certain objectives

25 that he was instructed or that he was taught at the camps, and

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1 by hitting an embassy the objectives are that you would
2 achieve would be you hit the ambassador by hitting the
3 embassy, you would also -- also an objective would be the
4 military attache, the press attache and what Al-'Owhali
5 described as, most importantly, the intelligence officers at
6 the embassy.

7 Q. Just to be clear, what did Mr. al-'Owhali tell you about
8 what his understanding was of Usama Bin Laden's role in the
9 bombing of the embassy in Nairobi?

10 A. Al-'Owhali explained to me that he was never specifically
11 told that this mission was Usama Bin Laden's mission, but he
12 always believed it to be so. Al-'Owhali explained to me that
13 his understanding of the way things work is that Usama Bin
14 Laden, it's not likely that he would take direct credit for
15 attacks like this. That's how he explained it to me.

16 Q. Now, after this meeting with Saleh on August 4th, 1998,
17 what did Mr. al-'Owhali do after that?

18 A. Al-'Owhali explained to me that after the 4th he spent the
19 next several days at Harun's house mentally preparing himself
20 to become a martyr, to die in the operation that was scheduled
21 for the 7th. He explained to me that on either Wednesday or

22 Thursday, he wasn't sure which day, either the 5th or 6th of

23 August, another person came to Harun's house and they all

24 accompanied this person to the garage.

25 Al-'Owhali explained that this person's name was

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1 Abdel Rahman and he was the, what Al-'Owhali described to me
2 as the technician who was, who would make the final electrical
3 connection between the bomb in the back of the truck and the
4 detonating device in the compartment, the driver's
5 compartment.

6 Q. Did Mr. al-'Owhali describe Abdel Rahman for you?

7 A. He described Abdel Rahman to be an Egyptian man who was in
8 his 30s, pretty much the basic description.

9 Q. Did Mr. al-'Owhali tell you anything else that Abdel
10 Rahman did?

11 A. Al-'Owhali explained that Abdel Rahman not only made the
12 final electrical connection for the bomb in Nairobi, but he
13 also did the same thing for the bomb in Dar es Salaam as well.
14 He said that this connection was done right in Al-'Owhali's
15 presence and that it didn't take very long at all.

16 Q. And that was the connection in Nairobi?

17 A. The connection in Nairobi, yes.

18 Q. What else did Al-'Owhali tell you, if anything, that
19 happened while he was in Harun's house on Wednesday and
20 Thursday before the bombing?

21 A. Al-'Owhali had explained to me that both on the -- between

22 the 4th and up to the day of the bombing that he made a series
23 of telephone calls to his friend in Yemen, Ahmed al Hazza, who
24 had fought with him in the C Formation battle I described
25 earlier today.

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1 Al-'Owhali explained to me he made these phone calls,
2 they were collect calls that he had made from Harun's house,
3 and the number that he called in Yemen to reach Ahmed al Hazza
4 was 9671200578, he called that number to reach Ahmed al Hazza.

5 Q. Did he tell you when the last call that he made to that
6 number was?

7 A. Al-'Owhali explained to me the last phone call he made was
8 approximately an hour before the bomb exploded on Friday, the
9 7th of August.

10 Q. Did Mr. Al-'Owhali tell you anyone else made phone calls
11 from Harun's house during this time period?

12 A. Al-'Owhali explained to me that Azzam, Jiad Ali, also made
13 a series of phone calls to his family, to Azzam's family in
14 Saudi Arabia on those last few days before the bomb exploded.

15 Q. Did Mr. al-'Owhali tell you about any instructions that
16 were made to the group during this time?

17 A. Yes, he did. Al-'Owhali explained that he was told from
18 both Harun and Azzam that Saleh had put out an order that
19 anyone even remotely associated with the bombings had to leave
20 the area immediately, had to leave before the explosion
21 actually took place. Then Al-'Owhali gave me a couple of

22 examples of what that was.

23 Al-'Owhali said to me, for instance, whoever bought

24 the truck, the person responsible for buying the truck, that

25 person would have to leave immediately; and also anyone who

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1 even knew what Saleh was doing would also have to leave before
2 the attack occurred. The only people that should be remaining
3 in Nairobi on the day of the attack are the people who were
4 necessary to actually carry the attack out.

5 Q. Now turning to the day of the bombing, what did
6 Mr. al-'Owhali tell you about the day of the bombing, August
7 7th?

8 A. Well, on the 7th of August, on the day of the bombing,
9 August 7, Al-'Owhali had made his last phone call to his
10 friend Ahmed al Hazza around 20 past 9 in the morning. At
11 about 9:45, they began to leave Harun's house.

12 Al-'Owhali explained that he was wearing black shoes,
13 blue jeans, white-colored shirt with short sleeves with
14 buttons that didn't go all the way down the shirt, just a few
15 buttons, and that the shirt had some sort of colored pattern
16 on it. He also had a jacket, a blue cotton jacket, and inside
17 the jacket is where his pistol was, in the pocket of the
18 jacket, and he also had four of what he described to me as
19 these homemade stun grenades tucked into his belt.

20 He described these stun grenades to be comprised of a
21 quarter finger of TNT, some aluminum powder and some black

22 tape. He had those tucked in his belt. Around 9:45 that
23 morning, they departed Harun's house. Harun would be driving,
24 and was driving, according to Al-'Owhali, a white pickup truck
25 and that Harun would be acting as the lead vehicle towards the

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1 U.S. Embassy in Nairobi. Azzam would be the driver of the
2 bomb truck, the bomb vehicle, and Al-'Owhali was the only
3 passenger in the truck.

4 Q. What did Mr. al-'Owhali tell you about what he did on the
5 way to the embassy?

6 A. Okay. On the way to the embassy, Azzam had instructed
7 Al-'Owhali that your wearing that jacket may cause you
8 problems at reaching the stun grenades, you should take your
9 jacket off. So Al-'Owhali did take his jacket off.

10 They continued to drive towards the embassy. Harun
11 is driving the lead vehicle, Al-'Owhali and Azzam are
12 following them in the bomb vehicle, and on their way
13 Al-'Owhali described to me that he and Azzam were listening to
14 an audio cassette of what he described as chanting poems for
15 motivation in preparing to die on the way to the embassy.

16 Q. Now, did Harun go all the way to the embassy with Azzam
17 and Al-'Owhali?

18 A. Al-'Owhali explained to me that Harun didn't drive all the
19 way, they drove to a certain point, a traffic circle or
20 roundabout or something, and pulled off to the side and that
21 Azzam and Al-'Owhali continued on in the direction of traffic

22 along Haile Selassie Avenue towards the embassy.

23 Q. What happened when they reached the embassy?

24 A. Upon reaching the rear parking lot of the embassy, Azzam

25 pulls into the embassy and starts to head for the drop bar in

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1 the back of the U.S. Embassy by the parking lot. At that
2 point another vehicle had just exited that drop bar from the
3 U.S. Embassy and it created a little bit of a backup. So
4 Azzam wasn't able to get exactly where he wanted to go.

5 As Azzam gets close to the drop bar, Al-'Owhali jumps
6 out of the vehicle and starts to go towards the guard. And he
7 realized that his pistol that he was supposed to use to
8 confront the guard was in his jacket pocket that he had took
9 off in the truck, so he tells me that he hesitated for a
10 second to go back to the truck to get the gun but realized
11 that that was probably going to -- it was too much time, he
12 didn't want to do that. So instead of using the gun, he ends
13 up pulling out one of those stun grenades in his right hand
14 and approaches the guard and demands that the guard open the
15 drop bar in English. And Al-'Owhali explained to me that the
16 guard didn't move fast enough, so he pulls the pin with his
17 left hand and he throws the stun grenade in the direction of
18 the guard and that that caused a loud explosion and the guard
19 ran.

20 At that point, other people started to run also,
21 other people started to scatter from the area from the loud

22 explosion, and Azzam started to move the truck. And as
23 Al-'Owhali described it, Azzam moved the truck somewhat
24 parallel to the embassy. Al-'Owhali says at this point Azzam
25 starts shooting directly at the U.S. Embassy with a pistol.

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1 And Al-'Owhali explains between Azzam firing the
2 pistol at the embassy and the loud explosion that was created
3 from when he threw the stun grenade, people started to
4 scatter. And Al-'Owhali explains to me at this point he
5 realized that his mission is complete, that he did exactly
6 what he was instructed to do. His mission was to help Azzam
7 get the truck as close as possible to the embassy and to
8 scatter away the people, the Kenyan people in and around the
9 area. Al-'Owhali says to him -- says to me that, at that
10 point, that had happened and it was no longer necessary for
11 him to die in the attack.

12 Al-'Owhali explained to me that the reason he had
13 died was the mission didn't go exactly point for point and
14 time to time the way it was supposed to. Al-'Owhali explained
15 to me that he was fully prepared to die in carrying out the
16 mission and that that would equate to being a martyr, to reach
17 martyrdom, dying in completion of your mission. But to die
18 after your mission had already been complete, Al-'Owhali
19 explains to me, is not martyrdom, it's suicide, and he
20 explains that suicide is -- it's not acceptable in his
21 religion and that that wasn't what his mission was. To die as

22 a martyr carrying out the mission was fine, but there was no

23 reason for him to commit suicide.

24 Q. So what did Al-'Owhali do?

25 A. Al-'Owhali ran toward, he explains to me that he ran

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1 towards the co-op building, and as he was running towards the
2 co-op building, Azzam detonated the bomb, causing the
3 explosion.

4 Q. What happened to Al-'Owhali after the explosion?

5 A. Al-'Owhali says in the blast that he's knocked down and
6 suffers some injuries and that he's able -- he picks himself
7 up and is able to walk to a first aid station or a clinic to
8 receive treatment for his injuries. Upon arriving at the
9 clinic, he realized that he still had one of those stun
10 grenades tucked into his belt, so he got it and he threw it in
11 a trash can in the clinic.

12 After receiving some initial first aid from the
13 clinic he's taken by an ambulance to an actual hospital, which
14 Al-'Owhali describes to me as the MP Sha Hospital. Upon
15 arriving at the MP Sha Hospital, he actually receives stitches
16 to his forehead, to his right hand, his wrist, I don't
17 remember which one, but inside both hands and also in the
18 center of his back.

19 After receiving treatment at the hospital, Al-'Owhali
20 starts to leave the hospital and is going to go back to
21 Harun's house. So Al-'Owhali explains to me that he was

22 supposed to die in this attack. There was absolutely no
23 extraction plan for him to leave the country. All his plane,
24 his plane tickets, his passport in the name of Khalid Salim
25 Bin Rashed, the Yemen passport, a bunch of other travel

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1 documents as well as Azzam's documents were all left with
2 Harun. So he wanted to get back to Harun's house.

3 When he got out in front of the hospital, he went to
4 reach to see if he had any money on him. He realized that he
5 still had the keys to the back of the truck and that was where
6 in case the bomb didn't get detonated by Azzam, he was
7 supposed to open the back of the truck and throw the stun
8 grenades in to manually detonate it. He had the keys and he
9 also had three bullets in his pocket as well from that pistol.

10 So he goes back inside the hospital, and inside the
11 hospital he goes into the men's room and he tells me that he
12 washes the keys and the bullets in the sink to remove any
13 fingerprints on them and then tries to flush them down the
14 toilet to get rid of them. But for some reason, he explained
15 that he couldn't get the toilet to flush them down, so he
16 retrieved them from the toilet and he hid them on a ledge in
17 the men's bathroom and then left the hospital.

18 MR. BUTLER: Your Honor, may I approach?

19 THE COURT: Yes.

20 Q. Agent Gaudin, I have placed before you Government Exhibit
21 558 and 559 for identification. Do you recognize Government

22 Exhibits 558 and 559?

23 A. Yes, I do.

24 Q. What are Government Exhibits 558 and 559?

25 A. There's two keys and three bullets.

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1 Q. Did you show these items to Mr. al-'Owhali during the
2 course of your interview?

3 A. Yes, I did.

4 Q. What did Mr. al-'Owhali say when you showed him these
5 items?

6 A. Al-'Owhali said to me that these are the keys and the
7 bullets that he hid in the MP Sha Hospital's bathroom, the
8 men's room.

9 MR. BUTLER: Move Government Exhibits 558 and 559
10 into evidence, your Honor.

11 MR. COHN: No objection.

12 THE COURT: Received.

13 (Government Exhibits 558 and 559 received in
14 evidence)

15 MR. BUTLER: May we publish a photo of those items to
16 the jury, your Honor?

17 THE COURT: Yes.

18 Q. Just to be clear, Agent Gaudin, Government Exhibit 558 is
19 what?

20 A. They are two keys, Tri-Circle keys, they're called, the
21 name of the company of the keys. I believe there's another

22 picture on the back that says Tri-Circle.

23 Q. Can we show Government Exhibit 559, please.

24 What is Government Exhibit 559?

25 A. Okay, it's actually three bullets. You may see four

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1 objects there, but one of the bullets is removed, the actual
2 bullet is removed from its casing. That was done at the
3 laboratory. The other two bullets are still intact.

4 Q. After Mr. al-'Owhali left the MP Sha Hospital, what if
5 anything did he tell you that he did?

6 A. Mr. al-'Owhali explained that he tried to find Harun's
7 house. He left on foot but he couldn't find Harun's house, so
8 he decided to take a taxi back to what he explained to me as
9 the only other place he knew to go. He went back to the
10 Ramada Hotel, which is the hotel he had checked in when he
11 arrived in Nairobi on Sunday, the 2nd.

12 Q. What happened when he arrived in the Ramada Hotel?

13 A. When he arrived at the Ramada Hotel, he had no money and
14 he went in to talk to the hotel clerk and explain to the hotel
15 clerk, I was here on the 2nd of August, I'm sure you remember
16 me, you keep my name in the ledger, I was here, I'm from
17 Yemen, but I lost all my travel documents and I was injured in
18 the explosion that happened earlier today. Could you please
19 give me some credit and let me stay here, pay for my taxi, and
20 I'll contact people who will send me money and then I'll be
21 able to pay you whatever I owe you. And the hotel clerk,

22 Al-'Owhali explained to me the hotel clerk agreed to do that.

23 Q. Did he tell you what room he checked into?

24 A. Al-'Owhali told me at that point he checked into room

25 number 7 at the Ramada Hotel.

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1 Q. What happened after he checked into room 7 at the Ramada
2 Hotel?

3 A. Al-'Owhali explained to me that the clerk of the hotel
4 went into the town and tried to find another person from his
5 country, another person from Yemen who may be able to provide
6 Al-'Owhali with some help because he obviously needed help
7 from being injured in the explosion.

8 So this hotel clerk does find a person from Yemen and
9 that person gets a set of clothes for Mr. al-'Owhali.

10 Al-'Owhali takes off the clothes he was wearing. Al-'Owhali
11 explained that he had blood on them, so he took the bloody
12 clothes off and he put them in a drawer inside of room 7 and
13 then put on the new clothes that this other person from Yemen
14 had just provided him.

15 Q. What else did Al-'Owhali tell you that he did during this
16 period?

17 A. Al-'Owhali explained to me that the next morning, the 8th,
18 he began to make a series of phone calls back to his friend in
19 Yemen, Ahmed al Hazza, at the number I had said earlier.

20 Al-'Owhali explained to me that again he had no plans to leave
21 the country. He was supposed to die, he was prepared to die

22 in the explosion. He had no money, no passport, no plane

23 tickets left, that was all left in the room.

24 He explains that calling his friend Ahmed al Hazza

25 was very frustrating for him because he was afraid the phones

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1 were being tapped or monitored, so when he would call him he
2 was talking to him as cryptically or as coded as he could. So
3 he had to make a series of different phone calls to Ahmed al
4 Hazza and eventually get the point across that, I need help, I
5 need you to wire transfer me money and I also need you to get
6 me travel documents so that I can leave. But ensure that
7 these travel documents that you get to me, make sure that they
8 are stamped, there's an entry stamp as entering Kenya after
9 the 7th of August, not before.

10 Also, he instructed Ahmed al Hazza to telephone
11 Khalid for him and give him the following message, and the
12 message was "tell Khalid I did not travel." And Al-'Owhali
13 explained to me that that was code that Khalid would
14 understand is that Al-'Owhali didn't die while carrying out
15 the mission.

16 Q. Did Mr. al-'Owhali eventually receive this wire transfer?

17 A. Al-'Owhali explained to me that the money did eventually
18 get wire transferred to him and Al-'Owhali said that he picked
19 up a thousand dollars, a thousand U.S. dollars at a jewelry
20 store or a gold store near the Ramada Hotel called Sheer Gold
21 and he did receive that money.

22 Q. What happened after Al-'Owhali received the thousand

23 dollars?

24 A. Al-'Owhali explained to me that plans were in the works

25 for this Ahmed al Hazza to come to assist Al-'Owhali getting

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1 out of the country, but Al-'Owhali explains that he was
2 arrested on the 12th. Had he been arrested the day or two
3 after, maybe he, both he and Ahmed al Hazza would have been
4 arrested instead of just him.

5 Q. Did this essentially complete Mr. al-'Owhali's story on
6 the 22nd?

7 A. Yes, it did.

8 Q. And did you ask him any questions following this story?

9 A. Yes, I did. In addition --

10 Q. What did you ask him?

11 A. In addition to making sure that I had the details of what
12 he explained to me as correct as I could, I asked him the
13 question of, what would it take for this fighting to stop, you
14 know, how can we prevent this, how can we end this?

15 Al-'Owhali explained to me that there were several
16 conditions that would have to be met, and he said the first
17 condition was that his -- he first said that the United States
18 is going to remain a target; that there's -- that the planning
19 to target the United States will not stop unless certain
20 conditions were met. First condition was that there would
21 have to be no U.S. presence, absolutely no U.S. presence

22 anywhere in the Arabian Peninsula; that the U.S. would also
23 have to stop providing any type of support for the enemies of
24 the Muslims, and he included specifically Israel and the
25 Serbs; and then the third statement was that the U.S. would